DOCUMENT RESUME

ED 428 039 SP 038 321

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TITLE	Student Teachers and Legal Issues.
PUB DATE	1998-11-06
NOTE	9p.; Paper presented at the Annual Meeting of the Mid-South Educational Research Association (New Orleans, LA, November 3-6, 1998).
PUB TYPE	Reports - Research (143) -- Speeches/Meeting Papers (150)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Educational Legislation; Educational Malpractice; Elementary Secondary Education; Higher Education; *Legal Problems; Legal Responsibility; Preservice Teacher Education; *School Law; *Student Teachers

ABSTRACT

In most cases, a student teacher's actions are subject to the same laws as are the teacher's actions. Numerous laws are enacted each year that affect teachers and their classrooms. Teachers and teacher educators must be kept informed of the legal consequences of their actions or inaction. Researchers sent a survey to area superintendents, principals, and other administrative officials to gain knowledge of which laws they believed were vitally important for student teachers to know. The survey listed 16 laws for the respondents to rate in order of importance. Results from surveys of 15 respondents indicated that 90 percent considered corporal punishment and discipline the most important issue that student teachers needed to know about. The five other issues rated as most important included first aid and medication, the rights of children with disabilities, physical contact, negligence, and time spent alone. Four issues that were rated as important were permission slips, the Family Educational Rights and Privacy Act, child abuse, and liability insurance. Two issues rated as most important and important were search and seizure and due process. The four issues rated as not so important were copyright laws, freedom from discrimination (teachers), academic freedom (teachers and students), and self-defense (teachers). (SM)

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Student Teachers and Legal Issues

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Paper presented at the Annual Convention
of the
Mid-South Educational Research Association
(New Orleans, Louisiana, November 1998)

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Abstract
Student Teachers and Legal Issues
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Teacher educators appear to undergo continual attempts in identifying the needs of pre-service teachers. Inherent in this search are multitudes of answers, ranging from the concrete subject knowledge to the elusive classroom management methods. One area that seems to have received little attention is legal issues. Teachers and administrators function in a complex environment with numerous legal ramifications. In most cases, a student teacher's actions are subject to the same laws as are the teacher's actions (Hartmeister, 1995). During the mid 1980s to mid 1990s there was a 200% increase of lawsuits involving teachers (Valente, 1994).

Numerous laws are enacted each year that affect teachers and their classrooms. It is essential that teachers and teacher educators are kept informed so that they are made aware of the legal consequences of their actions or their inaction. To be responsive to society and to better serve future teachers, teacher educators must have a firm understanding of the law as it affects children and teachers and impart such knowledge to students.

A survey was sent to area superintendents, principals, and other administrative officials in order to gain knowledge of which laws that they believe are vitally important for student teachers to know. The survey listed 16 laws for the respondents to rate in order of importance. The responses indicated clearly the importance of legal issues in pre-service teachers' education.

Teacher educators appear to undergo continual attempts in identifying the needs of pre-service teachers. Inherent in this search are multitudes of answers, ranging from the concrete subject knowledge to the elusive classroom management methods. One area that seems to have received little attention is legal issues. Survey research (Patterson & Rossow, 1996) which included more than 700 teacher preparation institutions showed that only 18 institutions offered an undergraduate course in educational law. Additionally, a review of educational literature reveals very few studies or articles specifically detailing the legal issues that student teachers need to know. Gullatt and Tollett (1995) stated that "there is no published source that provides an accurate and detailed accounting of all litigation involving educators in the public school" (p. 9).

The National Council for Accreditation of Teacher Education Standards (NCATE) (1995) has set standards governing the preparation of teachers. In these standards, I. D. 1 states, "candidates [educational institutions] shall complete a well-planned sequence of courses and/or experiences in professional studies in which they acquire and learn to apply knowledge about . . . school law and educational policy" (p. 17). Although this standard is a guide, it does not offer a specific list of legal issues that future teachers should know.

Teachers and administrators function in a complex environment with numerous legal ramifications. In most cases, a student teacher's actions are subject to the same laws as are the teacher's actions (Hartmeister, 1995). During the mid 1980s to mid 1990s there was a 200% increase of lawsuits involving teachers (Valente, 1994).

Since families expend considerable time, money, and effort to educate a student for a career in teaching, students should be prepared to avoid the bad judgments, indiscretions, and honest mistakes that may lead to judicial proceedings. Furthermore, all American citizens, including school personnel, are expected to know and abide by the law. According to the courts, ignorance of the law is not an accepted excuse. Furthermore, as school's and teacher's responsibilities increase, they must be informed of the law if they are to protect their rights and the rights of students (Davis & Williams, 1992). As such, it is a wise choice to practice preventive law.

There are several sources that can be used to determine which issues are most important for student teachers (and teachers) to know, such as, records of court proceedings, publications relevant to education law, and research. Of particular importance is information shared by superintendents, principals, and other school administrators. Some of these professionals were asked, in the form of a mailed survey, which legal issues should be included in the pre-service teachers' education. The survey contained the following list of legal issues:

- Corporal Punishment/Discipline Policy usually concerns a child's rights under the Fourteenth Amendment (due process). Districts that permit corporal punishment have to abide by the procedures established by the Supreme Court. There are also guidelines for disciplining children, found in the Eighth Amendment.
- First Aid and Medication may become an issue under Torts and Liability. The essence of this issue is that teachers should administer first aid only in the case of an emergency. Routine medication should only be handled by those persons who are authorized and qualified.
- IDEA, Disabled Children's Rights are part of the Individuals with Disabilities Education Act and the ensuing amendments. The regulations are far-reaching, affecting a significant number of children.

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- Physical Contact/Touching can fall under both sexual harassment and the Eighth Amendment. Individual schools usually have policies that teachers should use as guidelines.
- Negligence is one of the most frequently used sections under Torts and Liability for lawsuits. School personnel are responsible for the protection of students. The best rule of thumb is: be where you're supposed to be.
- Time Spent Alone with Students could involve Sexual Harassment policies and/or Title IX. Usually meetings with students of the opposite sex should be with an open door. After school activities should involve more than one student.
- Permission Slip Policy which falls under the negligence portion of Torts and Liability describes the nature of the permission given and the release from liability.
- FERPA, student records are a part of the Family Educational Rights and Privacy Act. The provisions dictate who has access to student records and how parents may challenge the content of the record.
- Child Abuse issues as specified by the National Child Abuse Prevention and Treatment Act, 1974. This includes the responsibilities that teachers have, what abuse signs to look for, and what happens if a report is or is not made.
- Liability Insurance should be obtained from professional organizations or through your homeowner's policy by teachers and per-service teachers.
- Search and Seizure Policy must comply with the Fourth Amendment, which gives individuals freedom from unreasonable searches and seizures.
- Due Process for the teacher is included in the Fourteenth Amendment. Teachers do have rights too. The most frequently violated law is the due process that employers owe to their employees.
- Copyright Laws fall under the U.S. Copyright Act. These address the amount of copies that teachers can make of certain materials.
- Freedom from Discrimination for both students and teachers is the concern of several laws such as, Title IX and the Civil Rights Laws. The basic premise for all school personnel is to treat each child fairly and equally, just as you would want your child treated.
- Academic Freedom for both student and teacher is covered under the First Amendment. Both parties have the right to discuss issues, but these must be curriculum-related, factual, objective, and impartial with a focus on open-minded learning.
- Self Defense (teacher rights) is also a part of Torts and Liability. Protecting yourself, other students, or school property from a student's destructive actions usually involves some force. This becomes a delicate issue in determining what constitutes reasonable force in a given situation.

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The respondents surveyed (n = 15) ranged from principals of large urban schools to assistant superintendents of small rural schools within a 50 mile radius of the Mississippi State University. The respondents were asked to rate each legal issue on the list with the following Likert type scale as a guide: 1 = *most important*, 2 = *important*, and 3 = *not so important*. Table 1 shows the results of this survey.

Survey results indicated that 90% of the respondents considered Corporal Punishment and Discipline as the *most important* issue that student teachers needed to know. The five other issues that were rated as *most important* were: First Aid and Medication (70%), Disabled Children's Rights (IDEA) (70%), Physical Contact (70%), Negligence (60%), and Time Spent Alone (50%). Four issues that were rated as *important* were: Permission Slips (60%), FERPA (60%), Child Abuse (50%) and Liability Insurance (50%). Two issues that were rated as *most important* and *important* were Search and Seizure (40%/40%) and Due Process (30%/40%). The four issues that were rated as *not so important* were Copyright Laws (60%), Freedom from Discrimination (teachers) (50%), Academic Freedom (teachers and students) (50%), and Self Defense (teachers) (50%). Table 1 clarifies the ratings.

Numerous laws are enacted each year that affect teachers and their classrooms. It is essential that teachers and teacher educators are kept informed so that they are made aware of the legal consequences of their actions or their inaction. To be responsive to society and to better serve future teachers, teacher educators must have a firm understanding of the law as it affects children and teachers and impart such knowledge to students.

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Table 1: Legal Issues Rating Results

The numbers under each column (*Most Important, Important*, etc.) represent the number of persons who rated it at that level.

Legal issue name	Most Important	Important	Not so Important
Corporal Punishment	9	1	0
First Aid & Medication	7	3	0
IDEA	7	3	0
Physical Contact	6	4	0
Negligence	6	4	0
Time Spent Alone	5	4	1
Permission Slips	1	6	3
FERPA	4	6	0
Child Abuse	4	5	1
Liability Insurance	3	5	2
Search & Seizure	4	4	2
Due Process (teachers	3	4	3
Copyright	1	3	6
Freedom from Discrimination (teachers)	2	3	5
Academic Freedom (teachers and students)	2	3	5
Self Defense (teachers)	2	3	5

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